

REMARKS

Claims 23-40 and 42-59 are all the claims pending in the application. Claims 44-59 have been withdrawn from consideration, Claims 23-28 have been rejected, and Claims 29-40 and 42-43 have been objected to, but they have been indicated as being allowable if rewritten in independent form.

Claims 23-28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,997,517 to Whitbourne ("Whitbourne '517") in view of U.S. Patent No. 6,673,105 to Chen ("Chen '105").

As an initial matter, Applicants respectfully request the Examiner to withdraw the finality of the Office Action. Claim 23 was previously amended to include the limitation of now cancelled Claim 41, a claim the Examiner had previously indicated as being allowable. See the Office Action dated January 10, 2006. The Examiner's rejection of Claim 23 over Chen '105 on a final basis for the first time in the Office Action dated June 30, 2006 is prejudicial to Applicants.

Furthermore, the rejection is improper because Chen '105 does not qualify as prior art under any section of 35 U.S.C. §§ 102 or 103. Chen '105 issued on January 6, 2004 from an application filed on April 2, 2002. The present application is a national stage application under 35 U.S.C. § 371 of International Application No. PCT/GB00/02485, filed on June 26, 2000, designating the United States. Under 35 U.S.C. § 363, an international application designating the United States shall have the effect, from its international filing date, of a national application for patent filed at USPTO. Accordingly, the filing date of the present application is June 26, 2000, the international filing date, (not June 12, 2002, the date on which all 35 U.S.C. § 371

requirements were completed.) Since the filing date of the present application is prior to the filing date of Chen '105, Chen '105 does not qualify as prior art under 35 U.S.C. § 102(e).


Accordingly, withdrawal of the rejection is requested.

Applicants gratefully acknowledge the Examiner's indication of allowable subject matter in Claims 29-40 and 42-43. Since Claims 23-28 are patentable for the reasons submitted above, Applicants respectfully submit that the present application has been placed in condition for allowance.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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